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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,920	12/23/2003	Andrew Robert England Kerr	S1011/20170 (251A)	9022

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EXAMINER

MUROMOTO JR, ROBERT H

ART UNIT PAPER NUMBER

3765

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/743,920

Applicant(s)

KERR, ANDREW ROBERT
ENGLAND

Examiner

Robert H. Muromoto, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09/980,678, filed on 10/31/01.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6, 8, 10, 15-21, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luhtala '737 in view of McNamee.

Luhtala teaches a versatile safety vest device that can serve as a personal flotation device and a bulletproof safety device. The safety device comprises a jacket frame which is made up of an outer shell, inner shell and buoyant material in between. Additional options for the device include an inflatable chamber which is placed in between the outer and inner shell. This chamber can be filled automatically or manually with gas or air. Another additional option is the inclusion of an anti-ballistic vest which can be attached to the outer surface of the jacket frame by snaps or any other suitable connection device. The anti-ballistic vest is a separate vest with an outer shell and inner shell that has openings into which layers of bulletproof material such as SPECTRA SHIELD®, are inserted in an overlapping manner to provide full protection

for the wearer. Since the vest is made of fabric it would allow for the expansion as recited when the inflatable chambers are inflated.

Although '737 teaches essentially all of the limitations of the instant invention there is no specific teaching with regards to a pressure regulating device, a valve for controlling the pressure, an automatic immersion inflation system, and a pressure regulating device in each bag.

However, McNamee teaches a life saving aid comprising an elongate tube provided with an automatic inflation device arranged to release gas to inflate the tube when immersed in water or manually triggered. The life saving aid is further provided with an oral inflation tube incorporating a non-return valve which is manually releasable to allow gas to escape from the tube (pressure regulating means).

Therefore it would have been obvious to modify the safety device of Luhtala to include an automatic inflation system and valve for controlling the air in the inflatable chamber of the safety device to provide even more safety to the wearer, in cases such as emergency man overboard situations.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luhtala '737 in view of McNamee as applied to claims listed above, and further in view of Goerz '769.

Although the combined teachings teach the limitations of the claims above they do not teach the use of a metal mesh layer to provide anti-ballistic characteristics to the garment.

However, Goerz '769 teaches the use of a metal mesh inner layer to "enhance" the "penetration resistance" capability of a garment.

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use a metal mesh layer in a garment to enhance the anti-ballistic (penetration resistance) characteristics of a garment.

Response to Arguments

Applicant's arguments filed 7/29/2005 have been fully considered but they are not persuasive. Applicant argues that newly added limitation that the flotation bladder is between the armor material and the inner layer of the vest is not taught by Luhtala. This argument is not persuasive. Figure 5 clearly shows a configuration where the inflatable chamber 36, is between the inner layer 14 and the bullet proof material 42. And that the bulletproof material 42 is under the external layer 70 of the vest. This configuration would inherently provide penetration resistance to the inflatable chamber 36.

Since this is the only argument presented by the applicant, the previous rejection remains and is considered to be proper.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert H. Muromoto, Jr. whose telephone number is 571-272-4991. The examiner can normally be reached on 8-530, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 703-305-1025. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bhm
October 26, 2005


JOHN J. CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700